

ERM-Southwest, inc.

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October 12, 1989

Mr. Brent Truskowski
U. S. Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202

W.O. #92-09

Subject: Transmittal of Revised Draft Assembly of Alternatives
and Reply to Alternatives Analysis Letter, Arkwood, Inc.
Site, Omaha, Arkansas

Dear Mr. Truskowski:

ERM-Southwest, Inc., on behalf of Mass Merchandisers, Inc. (MMI), is pleased to formally transmit to you the attached revised Draft Assembly of Alternatives for the Arkwood, Inc. site. This document supercedes the preliminary Assembly of Remedial Alternatives dated January 24, 1989. As you recall, the original list of alternatives was based on the assumption that sludges from the railroad ditch and sinkhole would be removed as an interim removal measure. The list of alternatives has been revised to include appropriate remediation of these areas. Screening of the alternatives has been added. In addition, the assembly and screening of alternatives reflects preliminary findings of the Treatability Study.

Representatives of MMI met with you and other EPA representatives on September 11, 1989 at the EPA regional headquarters in Dallas, Texas. The following people attended the meeting:

<u>Name</u>	<u>Representing</u>
Brent Truskowski	EPA
Garret Bondy	EPA
Cheryl Mack	EPA
Dan MacLemore	Weston (for EPA)
Doice Hughes	A.D.P.C. & E.
Bob Barker	MMI
Robert Ritchie	McKesson (for MMI)
Jean Mescher	McKesson (for MMI)
Dinah Darman	McKesson (for MMI)
Allan Gates	Mitchell, Williams, Selig and Tucker (for MMI)
Richard Fuller	ERM-Southwest, Inc. (for MMI)
Lee Holder	ERM-Southwest, Inc. (for MMI)
Steve Calhoun	ERM-Southwest, Inc. (for MMI)

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In this meeting, applicable or relevant and appropriate requirements (ARARs) were discussed for the Arkwood, Inc. site. In particular, MMI replied to your letter on alternatives analysis (undated, received March 30, 1989). The discussion and resolution of the issues is documented below.

Your letter asserts that the Resource Conservation and Recovery Act (RCRA) is an Applicable or Relevant and Appropriate Requirement (ARAR) for remedial action at the Arkwood, Inc. site. MMI disagrees with this interpretation. You advance two general bases for your interpretation, which are addressed separately below.

"Sufficiently Similar" to K001 Waste

In your letter, you state that sludges at the Arkwood, Inc. site are "sufficiently similar" to K001 hazardous waste ("bottom sediment from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol", 40 CFR 261.32), and, therefore, subject to land disposal restrictions (LDRs). EPA and MMI agree that there are no actual K001 wastes at the site, so that RCRA is not applicable due to K001 wastes. This agreement was confirmed in the September 11 meeting.

In fact, the site sludges were not the result of any process that is related to or otherwise resembles wastewater treatment. As you know, the site has no wastewater pond or lagoon. It would be unreasonable to assume, when all indications are to the contrary, that the sludges resulted from a process similar to wastewater treatment. The sludges in the railroad ditch and sinkhole are not "sufficiently similar" to K001 waste. Therefore, LDRs and treatment standards developed for K001 waste are neither relevant nor appropriate.

According to draft EPA guidance, for RCRA to be relevant and appropriate, the material must be "sufficiently similar" to a listed hazardous waste (Superfund Compliance with the RCRA Land Disposal Restrictions, U.S.EPA, August 3, 1988 Draft, p. 1-1. This document was provided to ERM-Southwest, Inc. by Ms. Ruth Izraeli as guidance to be followed.). The concept of "sufficiently similar" is found only in draft EPA guidance, and not in any statute or regulation. In addition, EPA guidance recognizes that the affected soil matrix is substantially different from the original, "pure" waste, such that considerations appropriate to the "pure" waste are not appropriate to affected soil. In response, the EPA has created the concepts of "soil and debris waste (SDW)" and "non-soil and debris waste (NSDW)" (Ibid, p. 1-1).

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According to EPA guidance, "It is important to note at this time that the LDRs will only be potentially relevant and appropriate for CERCLA NSDW. LDRs generally will not be relevant and appropriate for CERCLA SDW contaminated with wastes that are not known to be RCRA hazardous wastes... Therefore, as a matter of policy, the Agency has determined that SDW generally is not 'sufficiently similar' to RCRA wastes, such that the use of LDRs is well-suited to the circumstances at CERCLA sites." (Ibid., p.4-26, emphasis in original).

The sludges qualify as "soil and debris waste", in that they are the result of pentachlorophenol-containing fluids intermingling with soil in the ditch and sinkhole. The original material placed in the railroad ditch and sinkhole was not hazardous waste. Following EPA guidance cited above, the sludges in the railroad ditch and sinkhole are not "sufficiently similar" to K001 waste.

Notwithstanding the above discussion, MMI is willing to incinerate the sludges from the Arkwood, Inc. site. Since incineration meets treatment standards for RCRA land disposal restrictions, the question of RCRA as an ARAR for the sludges is moot. The EPA accepted this resolution in the September 11 meeting.

Proposed F032 Hazardous Waste Listing

In your letter, you state that "all of the wastes found at the site" would likely be considered hazardous if the proposal to list as hazardous F032 waste ("wastewaters, process residuals, preservative drippage, and discarded spent formulations from wood preserving processes that currently use or have previously used chlorophenolic formulations...", 53 FR 53282, 12/30/88) is finalized. You assert that LDRs would potentially apply in this situation.

However, a regulation must be in force to be a potential ARAR. The proposed F032 listing will not necessarily become final and, even if finalized, may be changed in ways which would substantially affect any interpretation of the current proposal. Furthermore, recent guidance from EPA Region 6 to ERM-Southwest (on the Odessa Chrome I and II sites, relative to use of proposed vs. promulgated Maximum Concentration Limits) has been that proposed regulatory changes cannot be considered in CERCLA site evaluations.

It is important to note that the proposed F032 listing does not contain any land disposal restrictions. Thus, even if the F032 listing were finalized as is currently proposed, LDRs will not

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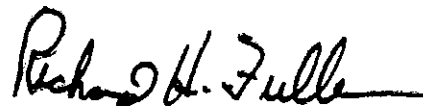
automatically apply. There are no proposed treatment standards which would apply to the site sludges or affected soil as a result of this listing.

In the September 11 meeting, the EPA acknowledged that the proposed F032 listing does not make RCRA a potential ARAR for the Arkwood, Inc. site.

Should you have any questions regarding this matter, please call me.

Sincerely,

ERM-SOUTHWEST, INC.



Richard H. Fuller, P.G.
Principal

RHF/mfa:0520
Attachments

cc: Doice Hughes, Arkansas Dept. of Pollution Control and Ecology
Dan MacLemore, Roy F. Weston, Inc.